

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

G.S., by and through his parents and next  
friends, BRITTANY AND RYAN  
SCHWAIGERT; S.T., by and through her  
mother and next friend, EMILY TREMEL;  
J.M., by and through her mother and next  
friend, KIMBERLY MORRISE; and on  
behalf of those similarly situated,

Plaintiffs,

v.

GOVERNOR BILL LEE, in his official  
capacity as GOVERNOR OF TENNESSEE  
and SHELBY COUNTY, TENNESSEE,

Defendants.

NO. 21-cv-02552-SHL-atc

**MOTION TO INTERVENE**

**NOW COME** Proposed Plaintiff-Intervenors (the “Intervenors”), respectfully moving this Court for leave to intervene as plaintiffs in this action. Intervention is warranted as of right pursuant to Fed. R. Civ. P. 24(a) or, alternatively, permissively warranted under Fed. R. Civ. P. 24(b)(1).

**IN SUPPORT THEREOF**, the Intervenors show the Court:

1. Mack Riggs and Alyson Riggs (together, the “Riggses”) are the parents of M.R., S.R., A.R., J.R., and J.R (collectively, the “Children”). The Riggses are people of faith for whom the free exercise of religion is a strongly held conviction. In furtherance of that conviction, the Riggses have enrolled the Children in Westminster Academy (“Westminster”), a private, religious school located in Shelby County, Tennessee.

2. On August 6, 2021, the Shelby County Health Department issued Amended Health Order No. 24 (the “Health Order”), which required “all K-12, Pre-K schools, and Daycare facilities to require universal indoor masking for all teachers, staff, students, and visitors to the schools, regardless of vaccination status.”
3. On August 16, 2021, Governor Bill Lee (“Governor Lee”) issued Executive Order No. 84 (the “Executive Order”), which allowed a student’s parents or guardians to opt out of any order requiring a student in kindergarten through twelfth grade to wear a face covering at school, on a school bus, or at school functions.
4. August 16, 2021, Alyson Riggs emailed an official at Westminster Academy indicating that the Children were opting out of wearing a mask pursuant to the Executive Order.
5. Plaintiffs, public school-age children with disabilities that render them medically vulnerable to COVID-19, filed the Complaint in this action seeking injunctive relief to enjoin enforcement of the Executive Order in Shelby County. In their Complaint, Plaintiffs seek redress pursuant to the statutory guidelines set forth in the ADA and Section 504 of the Rehabilitation Act of 1973.
6. On September 17, 2021, upon the motion of Plaintiffs, this Court issued a preliminary injunction (the “Injunction”).
7. Under the Injunction, Governor Lee is enjoined from enforcing the Executive Order in Shelby County, as currently specified under Shelby County Health Order No. 25; and Shelby County is required to enforce its Health Orders without exception to the Executive Order.

8. On October 27, 2021, Shelby County issued Health Order No. 27 which renewed and extended the Health Order through November 20, 2021. Health Order No. 27 specifically references the Preliminary Injunction Order and states that “[m]asks will continue to be required in schools due to the absence of a uniform, reliable approach for providing reasonable accommodations for children with disabilities.”
9. The Intervenor contend that Plaintiffs’ specific reference to the ADA and Section 504 of the Rehabilitation Act of 1973 narrows the applicability of the Injunction and the Health Order to only public schools and/or educational systems in Shelby County that receive federal funding.
10. Westminster, a private religious school that does not receive federal funding, is specifically exempt from both the ADA and Section 504 of the Rehabilitation Act of 1973. However, the breadth and general language of the Injunction has led Westminster to interpret it to apply to its students as well as the students who attend public school in Shelby County. For clarity, the Intervenor now seek a modification of the Injunction specifying that it does not apply to students who attend religious schools that do not accept federal funding, such as Westminster.
11. The Riggsses, as parents of children attending a private, religious school, and the Children, as students attending a private, religious school, have a substantial legal interest in the Court’s Injunction as applied to the schools of Shelby County. The Intervenor do not have adequate representation through the current parties in this matter and their ability to protect their interests would be impaired if this Court does not grant the Intervenor’s motion to intervene. This motion is timely filed;

thus, the Intervenor has satisfied the procedural requirements necessary to intervene in this action which substantially burdens the Intervenor's rights.

**WHEREFORE**, the Intervenor respectfully request that the Court grant their motion, allowing them to intervene as plaintiffs and uphold their constitutional and statutory rights.

**CERTIFICATION**

In consideration of W.D. Tenn. Civ. R. 7.2(a)(1)(B), I, David G. Redding, certify that counsel from my firm conferred and sought the consent of counsel for all parties to the filing of this Motion to Intervene. Counsel for Plaintiffs was contacted on November 3, 2021 via telephone and November 5, 2021 via email. Counsel for Plaintiffs oppose this motion. Counsel for Governor Lee was contacted on November 5, 2021 via telephone and email and does not oppose nor consent to the filing of this motion. Counsel for Shelby County was contacted on November 5, 2021 via telephone. Counsel for Shelby County did not respond.

This the 7th day of November, 2021.

**TLG Law**

/s/ David G. Redding

David G. Redding (N.C. Bar # 24476)  
(admission pending)

Ryan B. Simpson (N.C. Bar # 53608)  
(admission pending)

2907 Providence Road, Suite 303

Charlotte, North Carolina 28211

dredding@tlg-law.com

rsimpson@tlg-law.com

Telephone & Facsimile: (704) 900-2215

Jordan K. Carpenter (TN BPR #035074)  
1257 Wesleyan Place

Memphis, TN 38119  
lawjcarpenter@gmail.com  
Telephone: (901) 634-0148  
*Attorneys for Plaintiff-Intervenors*

**CERTIFICATE OF SERVICE**

The undersigned certifies that service of the foregoing **MOTION TO INTERVENE** has been made on November 7, 2021, via ECF, which served a copy on all registered counsel of record via the Court's ECF filing protocol.

/s/ David G. Redding

David G. Redding